IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 22.06.2006

Coram

THE HONOURABLE MR. JUSTICE P.SATHASIVAM

and

THE HONOURABLE MR. JUSTICE V. DHANAPALAN

Writ Appeal No.1476 of 2003

Karuppannan Ambalam .. Appellant

versus

1. The Tahsildar
   Madurai North Taluk
   Madurai.

2. State of Tamil Nadu represented by
   its Secretary and Commissioner
   Department of Social Welfare
   Fort St. George, Madras-600 009.

3. Special Tahsildar
   (Land Acquisition)
   Adi Dravidar Welfare
   Madurai. .. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 1.8.2002 passed in Writ Petition No.9981 of 1994.

For appellant : Mr.P. Raja
for Mr.S.Subbiah

For respondents: Mr. M.Dhandapani, AGP

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JUDGMENT
(Judgment of the Court was delivered by
P.SATHASIVAM,J.,)

The above Writ Appeal has been filed against the order

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of the learned single Judge dated 1.8.2002 passed in W.P.No.9981 of 1994 in and by which while dismissing the Writ Petition, as requested by the petitioner, granted three months time to vacate and hand over vacant possession to the respondents.

2. Heard the learned counsel appearing for the appellant as well as the learned Additional Government Pleader appearing for the respondents.

3. Initially, one Durairaj alias Chinnadaikkan Ambalam and Karuppannan Ambalam filed the Writ Petition No.9981 of 1994, challenging the order dated 9.4.1994 passed by the Special Tahsildar, (Land Acquisition) Adi Dravidar Welfare, Madurai Taluk and prayed for quashing of the said notice insofr as it relates to 35 cents out of 0.30.5 hectare belonging to the petitioners in S.F.No.394/B-1 (New S.F.No.119/2B-1), Kallanthiri II Bit, Madurai North Taluk, Madurai District.

4. The Special Tahsildar (Land Acquisition), Adi Dravidar Welfare, Madurai has filed a counter affidavit disputing various averments made in the affidavit filed in support of the Writ Petition. During the course of hearing, the learned single Judge taking note of the objection raised by the petitioners, directed the 3rd respondent to file a report with reference to the land in question. Pursuant to the said direction, the 3rd respondent has also filed a report on 22.7.2002. After considering the rival contentions and taking note of the factual information furnished by the 3rd respondent and also of the fact that the acquisition proceedings have been completed, the compensation amount was deposited in civil Court to the credit of the acquisition proceedings and after finding that the petitioners have encroached the same from 1975 and continued to be in possession as encroachers, dismissed the Writ Petition.

5. In the same order, the learned single Judge on the undertaking given by the petitioners by filing affidavit, granted three months time for handing over vacant possession to the respondents. Questioning the said order, out of the two petitioners, Karuppannan Ambalam alone has filed the above Writ Appeal.

6. Though the learned counsel appearing for the appellant wanted to draw our attention in respect of the civil proceedings, it is not in dispute that pursuant to the direction of the learned single Judge, the 3rd respondent after due inspection and based on the revenue

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records submitted a report. The said report reads as follows:

" An extent of 0.30.5 hectares of wet land situate in Thoppulampatti village, Madurai North Taluk has been acquired for House site to be provided to houseless Adi Dravidars, comprised in New S.No.113/2B1 (Old S.No.394/2B1). An award was passed on 7.3.1978 and necessary changes carried out in all village accounts. Yet pattas are not issued till date. I submit that the land owners appealed against the said land acquisition proceedings. Meanwhile, the land owners encroached their respective lands and raised compound walls and also so many trees were planted by them. Subsequent to that event, the regular Tahsildar, Madurai North Taluk, has taken eviction action against the land owners. Consequently, the land owners filed W.P.No. 9981 of 1994 and obtained stay order on 27.11.1996. Counter affidavit was filed on 22.7.1997 on behalf of Government. On 8.8.2001 the Hon'ble High Court has directed the Tahsildar to identfy the land acquire to the respective land owners. Accordingly, the Tahsildar, Madurai North Taluk and Special Tahsildar (Land Acquisition) were jointly inspected the acquire land on 14.9.2001 and a detailed report was sent to Hon'ble High Court.

It is submitted that at present, the above said acquired land comprised in S.No.394/2B1 and an extent of 0.75 cent land is in possession and enjoyment of the following erstwhile land owners;

1. Durairaj @ Chinnadaikkan Ambalam
2. Karuppannan Ambalam.
3. A. Mani
4. A.Rajendran
5. Kanakavel (guardian and mother Rajalakshmiammal)

The land is in possession of the above said land owners. Patta has not been issued till this date. Compensation amount towards the acquired lands is in deposit of Court, Madurai.

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I further submit the following details:

District -- Madurai

Taluk -- Madurai North

Survey No. -- 394/2B1 (New S.No.113/2B1)

Area -- 0.75 cents

Classification -- wet lands

Land Acquisition Act -- Central Act 1/1894

Date of Publication -- 4(1) 29.1.1975

Date of Enquiry 5A -- 10.3.1975

L.A.Compensation Amount – Rs. 8,983.85

Details of issuance of patta- Patta has not been issued

7. It is not in dispute that the petitioner was given notice at the time of inspection by the 3rd respondent. On the other hand, after submission of the report by the Tahsildar, the petitioner has not filed any objection with regard to the statement of fact made by Tahsildar. The learned Judge, after going through the report and after satisfying himself that the land acquisition proceedings have been completed, the compensation awarded was also deposited with the 5th Additional Sub Court to the credit of the acquisition proceedings, rejected the case of the petitioner. In the same order, the learned Judge has afforded liberty to seek higher compensation if they so desire by way of reference under Section 18 of the Land Acquisition Act. It is further seen that in view of the factual position, the ultimate conclusion arrived by the learned single Judge, Mr. S.Subbiah, learned counsel who appeared for the petitioners, prayed for three months time for vacation of the land in question. Though the learned Judge has not inclined, in view of the fact that the acquisition proceedings were initiated in 1975 and the petitioners continued to be in possession as encroachers, granted three months time on condition that the petitioners file an affidavit of undertaking.

8. In the light of the above factual position, we are satisfied that there is no valid ground for interference. On the other hand, we are in agreement with the conclusion

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arrived by the learned single Judge. Accordingly, the Writ Appeal fails and the same is dismissed. No costs.
vbs

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Tahsildar
   Madurai North Taluk
   Madurai.

2. The Secretary and Commissioner
   State of Tamil Nadu
   Department of Social Welfare
   Fort St. George, Madras-600 009.

3. The Special Tahsildar
   (Land Acquisition)
   Adi Dravidar Welfare
   Madurai.

+ one cc to Mr. G. Subbiah, Advocate srn o. 26778
+ one cc to the Government Pleader sr no. 26564

MAB(CO)
NM(04.07.2006)

W.A.No.1476 of 2003

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